

**UNITED STATES COURT OF APPEALS**

**FEB 16 1999**

**TENTH CIRCUIT**

**PATRICK FISHER**  
Clerk

CHARLES CARSON BREWINGTON,

Petitioner - Appellant,

v.

H. N. "SONNY" SCOTT, Warden;  
ATTORNEY GENERAL OF THE  
STATE OF OKLAHOMA,

Respondent - Appellee.

No. 98-6356  
(D. Ct. No. CV-97-521-R)  
(W.D. Okla.)

**ORDER AND JUDGMENT\***

Before **TACHA, McKAY**, and **MURPHY**, Circuit Judges.

After examining the briefs and the appellate record, this three-judge panel has determined unanimously that oral argument would not be of material assistance in the determination of this appeal. See Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

This appeal is from an order of the district court denying federal habeas corpus relief in petitioner's action brought pursuant to 28 U.S.C. § 2254.

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\*This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. This court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

Petitioner appeals on the grounds that he was denied due process of law by the issuance of a summary opinion by the Oklahoma Court of Criminal Appeals and that certain evidentiary rulings denied him a fair trial. The district court denied a certificate of appealability and denied petitioner's motion to proceed in forma pauperis on appeal. We decline to issue a certificate of appealability.

In this action, petitioner challenged his conviction in the district court of Comanche County, Oklahoma, for first degree murder. Petitioner is currently serving a life sentence on this conviction. On appeal he alleges that the district court erred in finding that he was not deprived of due process of law in the Oklahoma Court of Criminal Appeals and that he was not denied a fair trial in the Oklahoma trial court based on two evidentiary rulings.

The magistrate judge, in a thorough report and recommendation, examined carefully the record and the law related to the issues raised by petitioner and recommended to the district court that the petition for habeas corpus be denied. The district court adopted the magistrate's report and recommendation, denied habeas corpus relief, and denied a certificate of appealability and the motion to proceed in forma pauperis. After our independent review of the record in this matter, including the full trial transcript, and the relevant legal authority, we are convinced that the magistrate judge correctly analyzed the issues on appeal. We

therefore deny the certificate of appealability. The appeal is dismissed.

ENTERED FOR THE COURT,

Deanell Reece Tacha  
Circuit Judge